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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In Re )  
 )  
Amendment of Section 73.3526 ) MM Docket No. \_\_\_\_\_  
of the Commission's Rules ) RM- \_\_\_\_\_

To: The Commission

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PETITION FOR RULEMAKING

The undersigned on behalf of various of his clients who have recently acquired, are in the process of acquiring, and/or contemplate acquiring broadcast station licenses hereby petitions the Commission to amend Section 73.3526 of its Rules to include the following provision:

Licensees who acquire their broadcast licenses pursuant to Commission consent granted on FCC Form 314 have no obligation to ensure that their station's public file contains documents that were required to be placed in the public file by any predecessor licensee.

This proposed change in the public file rule is warranted as it will relieve parties who acquire broadcast stations of the burden and expense of reconstructing the prior licensee's public file without having any adverse impact on the interest of the public in being able to obtain relevant information concerning the ownership and programming of radio and television stations.

The sort of information that broadcast station licensees and permittees are required to keep in their station's public files is only relevant to the public in so far as it pertains to the current or a prospective licensee of a station. Information as to the ownership, programming presentations, and EEO practices of

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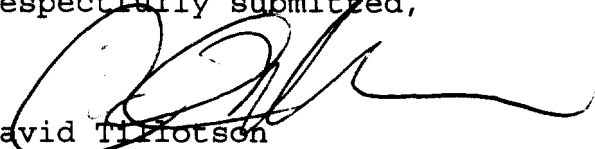
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prior licensees or permittees of a station is of no practical use to the public, or to the Commission. Nevertheless, Section 73.3526 not only requires licensees and permittees to maintain ownership, programming, and EEO information pertaining to time periods prior to their acquisition of a station, but it requires licensees to reconstruct the public files of their stations with documents pertaining to the ownership, programming and EEO practices of their predecessors if any of the documents that their predecessors were obligated to place in the public file are missing and the retention period (typically 7 years) for the document has not passed. Reconstructing a public file entails sending an attorney or legal assistant to the FCC's Broadcast Public Reference Room, EEO Branch, and Ownership Branch, to conduct research to identify what documents pertaining to the former owner or owners of the station should have been placed in the public file, and to then obtain copies of such documents. Such research and copying costs hundreds, and sometimes thousands of dollars. It not only places a burden on the licensee, but it burdens the Commission's resources as documents needed to reconstruct a public file often must be retrieved from the Commission's document storage facility. To what end? No one could possibly care about who were the owners of a former licensee, or how many minorities and females the former licensee employed in various job categories.

Accordingly, the Commission should amend Section 73.3526 of its Rules in the manner proposed above to make it clear that a

licensee or permittee that has acquired a station pursuant to Commission consent on a Form 314 assignment application has no obligation to reconstruct the public file that should have been maintained by any former owner of the station.<sup>1</sup>

Respectfully submitted,



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July 8, 1996

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<sup>1</sup>Most of the same arguments in favor of relieving licensees who acquire their stations pursuant to a license assignment of the obligation to reconstruct their predecessor's public file would apply in the case of parties who become licensees by acquiring the stock of a licensee rather than acquiring the license itself. However, as a degree of legal responsibility, and in some cases ownership continuity, is involved in transfer of control situations, it is possible (though not very likely) that public file documents from periods prior to a transfer of control may have some relevancy to the public following a transfer of control. It is for this reason that Petition has limited the proposed amendment to situations where a license is acquired by assignment.